



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

John Lee, Chair
Susanne Murphy, Vice Chair
Bob Fitzgerald, Clerk
Jane Coffey, Member
Drew Delaney, Member
David Anderson, Assoc. Member

DECISION – BOARD OF APPEALS CASE NO. 21-3

**APPLICANT:
Glen & Nicole Perlman**

**SITE:
24 Jorie Lane, Walpole, MA 02081**

**Assessor's Lot No. 16-14
Zoning District R**

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The grant of a VARIANCE under Section 6.B.1. of the Zoning Bylaw to allow the construction of an addition within the side-yard setback that is less than what is allowed in Zoning District Residential at 24 Jorie Lane, Walpole, MA 02081.

On April 7, 2021 a Public Hearing was opened via Zoom Meeting, for the purpose of receiving information and voting upon a decision as to the granting of the Variance requested. The members who were present and voting:

NAMES OF VOTING MEMBERS:

John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Drew Delaney, Member

VOTE OF THE BOARD:

A motion was made by Murphy and seconded by Coffey, that the Board grant the applicant a Variance under Section 6.B.1. of the Zoning Bylaw to allow the construction of an addition within the side-yard setback that is less than what is allowed in Zoning District Rural at 24 Jorie Lane, Walpole, MA 02081.

The vote was 5 - 0 - 0, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, therefore, the Variance is hereby granted, subject to the following conditions.

Zoning Board of Appeals

CONDITIONS:

1. The addition shall be constructed according to the plans submitted at the public hearing which include the following:
 1. Certified Plot Plan "Plan of Land at 24 Jorie Lane, Walpole, MA 02081", dated 2/20/21 by J. Webby Consulting LLC. Of 6 Pine Hill Road, Kingston, MA 02364
 2. "24 Jorie Lane Addition & Renovation, Walpole, MA 02081" dated 2/22/21, sheets A000 thru A-401, by Port One Design LLC, P.O. Box 490, Boston, MA 02128
2. The single-family home is currently a four-bedroom home, and shall remain a four-bedroom home.

REASONS FOR DECISION

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

24 Jorie Lane is an 80,141 square foot narrow rectangular lot and lies within the Zoning District Rural, which exceeds the required 40,000 square feet of land. The building as erected on the lot is a conforming structure, with the rear left corner of the home placed on the 25 ft. setback. The narrow shape of the lot specifically affects the existing structure but does not generally affect the zoning district in which it is located. The existing house is 1,735 square feet, with a paved driveway on the right side of the property, with a septic tank located to the rear right side of the property. Along the rear of the property is a boulder retaining wall, made up of all of the existing boulders and rocks that were on the property prior. The applicant stated that the placement of the proposed addition to the home is limited to the proposed location, due to the rocky nature of the soil, the narrow and rectangular shape of the lot, and the placement of the existing driveway, and septic system underground. During the public hearing, the applicant voiced that he and his wife have three children, and need additional space in order to accommodate remote learning, and need additional storage space within the home, as they have utilized all of the existing storage space throughout the years. The applicant stated that after some time of looking into constructing an addition to the home, that it is not possible to place the proposed addition elsewhere on the property due to the conditions mentioned above, and any other placement to the opposite side of the property would create a substantial financial hardship because it would require either a complete rebuild of the home, or a relocation of the existing paved driveway.

The Board was persuaded that an undue hardship exists, primarily because of the soil conditions, shape and topography of the land, placement of the existing septic tank, and the substantial hardship of the alternate options of either tearing down the house and constructing from scratch, or the relocation of the existing driveway.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The proposed placement of the addition to the rear left corner of the existing home as shown on the plans submitted at the public hearing depicts the side-yard setback to be 19.5 feet instead of the required 25 feet.

The applicant voiced that the nearest neighbor that resides on the abutting property of where the proposed addition is shown, is approximately 150 feet away from the property line. The lot itself is more than twice the required square footage within the Rural Zoning District. Mr. Fitzgerald stated that the plot plan of existing conditions shows an existing deck that goes into the setback, in which the applicant stated that the deck is allowed to encroach into the setback of four feet, and spoke with the Building Commissioner beforehand relating to the existing deck and its encroachment into the setback.

The Board was persuaded that the proposed addition could be granted relief without substantial detriment to the public good since the lot is over twice the required size for the Zoning District, the nearest abutting neighbors home is located approximately 150 feet away from the property line, the addition would remain unseen from the street due to its placement, and the renderings depict an addition that maintains the character of the home, and the neighborhood itself.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The intent of the Bylaw is to provide uniform regulation of buildings to establish reasonable expectations of neighbors and neighborhoods in terms of development within the neighborhood. The applicant, as expressed above, has given several circumstances relating to soil conditions, shape and topography of the property, as well as the location of the home on the property and the financial hardships that would be created if the variance were not granted. The Board received two letters of support from abutters, and supportive testimony from the abutting neighbor closest to the proposed addition. Although the Board considers statements of support, they not conclusive as to a determination of whether the Variance is to be granted. The Board finds that granting relief by a Variance would not derogate from the intent and purpose of this bylaw due to the applicant being able to meet the stringent standards for granting a Variance that is required.

APPEALS FROM THIS DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk

cc: Town Clerk
Building Inspector
Applicant

This decision was made on April 7, 2021 and filed with the Town Clerk on April 21, 2021.

Zoning Board of Appeals